

3-26-2008

# BANS ACTIVITIES DEFINED AS "HUMAN CLONING." CRIMINAL PENALTIES. CONSTITUTIONAL AMENDMENT AND STATUTE.

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**DEBRA BOWEN** | SECRETARY OF STATE  
STATE OF CALIFORNIA | ELECTIONS

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | [www.sos.ca.gov](http://www.sos.ca.gov)

September 30, 2008

County Clerk/Registrar of Voters (CC/ROV) Memorandum #08288

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Associate Elections Analyst

RE: Initiative: Failure of #1337, Related to Human Cloning

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures for the hereinafter named constitutional amendment and statute filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: BANS ACTIVITIES DEFINED AS "HUMAN CLONING."  
CRIMINAL PENALTIES. CONSTITUTIONAL AMENDMENT  
AND STATUTE.

SUMMARY DATE: March 26, 2008

PROPONENT: Laura Storms



**DEBRA BOWEN** | SECRETARY OF STATE  
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March 26, 2008

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS/PROPONENT  
(08118)

FROM:

  
KATHERINE MONTGOMERY  
Associate Elections Analyst

SUBJECT: **INITIATIVE #1337**

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**BANS ACTIVITIES DEFINED AS "HUMAN CLONING."  
CRIMINAL PENALTIES.  
CONSTITUTIONAL AMENDMENT AND STATUTE.**

The proponent of the above-named measure is:

Laura Storms  
8130 La Mesa Blvd. #202  
La Mesa, CA 91941

**BANS ACTIVITIES DEFINED AS "HUMAN CLONING."  
CRIMINAL PENALTIES.  
CONSTITUTIONAL AMENDMENT AND STATUTE.**

**CIRCULATING AND FILING SCHEDULE**

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1. Minimum number of signatures required: ..... 694,354  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: ..... Wednesday, 03/26/08
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (Elec. Code § 336) ..... Wednesday, 03/26/08
  - b. Last day Proponent can circulate and file with the county.  
All sections are to be filed at the same time within each  
county. (Elec. Codes §§ 336, 9030(a)). ..... Monday, 08/25/08\*
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (Elec. Code § 9030(b))..... Friday, 09/05/08  
  
(If the Proponent files the petition with the county on a date prior to  
08/25/08, the county has eight working days from the filing of the petition  
to determine the total number of signatures affixed to the petition and to  
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures  
and notifies the counties..... Sunday, 09/14/08\*\*
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(Elec. Code § 9030(d)(e)) ..... Monday, 10/27/08

\* Date adjusted for official deadline, which falls on a weekend (Elec. Code § 15).

\*\*Date varies based on the date of county receipt.

**INITIATIVE #1337**

**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 09/14/08, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (Elec. Code §§ 9030(f)(g), 9031(a)) ..... Thursday, 11/06/08\*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). ..... Tuesday, 12/23/08

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 11/06/08, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033) ..... Saturday, 12/27/08\*

\*Date varies based on the date of county receipt.

## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 445-4752  
Facsimile: (916) 324-8835  
E-Mail: Krystal.Paris@doj.ca.gov

March 26, 2008

**FILED**  
In the office of the Secretary of State  
of the State of California

MAR 26 2008

Debra Bowen  
Secretary of State  
1500 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Sacramento, CA 95814

Debra Bowen, Secretary of State  
By   
Deputy Secretary of State

Attention: Ms. Katherine Montgomery  
Associate Elections Analyst

Re: Initiative 08-0005 The Ban on Human Cloning.

Official Title: BANS ACTIVITIES DEFINED AS "HUMAN CLONING." CRIMINAL  
PENALTIES. CONSTITUTIONAL AMENDMENT AND STATUTE.

Dear Ms. Bowen:

Pursuant to Elections Code sections 9004 and 336, you are hereby notified that on this day we mailed our title and summary for initiative 08-0005 to the respective proponent.

Enclosed is a copy of that title and summary, and a copy of the proposed measure.

Sincerely,



KRYSTAL M. PARIS  
Initiative Coordinator

For EDMUND G. BROWN JR.  
Attorney General

KMP:  
Enclosures

Proponent's Public Information:

Laura Storms  
San Jose Group  
8130 La Mesa Blvd., #202  
La Mesa, CA 91941

Date: March 26, 2008  
Initiative No.: 08-0005

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

BANS ACTIVITIES DEFINED AS "HUMAN CLONING." CRIMINAL PENALTIES.

CONSTITUTIONAL AMENDMENT AND STATUTE. Amends constitution to ban activities related to "human cloning," defined as: "human asexual reproduction, accomplished by introducing the genetic material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been or will be removed or inactivated, so as to produce an organism, at any stage of development with a human or predominantly human genetic constitution." Subjects violators to 15 or 25 year prison terms without possibility of parole, fines of at least \$250,000, and permanent medical license revocation . Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Potential state savings up to the low hundreds of millions of dollars annually over the next few decades resulting from reduced principal and interest costs for bonds to fund embryonic research. Unknown potential loss of state and local revenue gains and cost savings due to reduced research funding for embryonic research. (Initiative 08-0005.)



**VIA PERSONAL DELIVERY**

Office of the Attorney General  
ATTN: Initiative Coordinator  
1330 "I" Street  
Sacramento, CA 95814

0 8 - 0 0 0 5

**RECEIVED**

**FEB 0 1 2008**

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

February 1, 2008

**Re: Request for Title and Summary- Initiative Constitutional Amendment  
For the November 2008 Election**

Dear Initiative Coordinator,

Pursuant to Article II, Section 10(d) of the California Constitution, and Section 9002 of the Election Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment for, "The Ban on Human Cloning."

Enclosed please find from the San Jose Group: 1) the language of the proposed initiative; 2) the executed certifications required by Election Code section 9608; 3) a \$200 check for the filing fee.

Should you have any questions or require further information, please contact Laura Storms, [lstorms@comcast.net](mailto:lstorms@comcast.net) or the website [www.sanjosegroupinitiatives.com](http://www.sanjosegroupinitiatives.com)

Sincerely,

✓ ~~Laura Storms~~ ✓  
San Jose Group

**SECTION 1. Title.**

This Act may be known and cited as, "The Ban on Human Cloning."

**SECTION 2. Declarations and Findings.**

- a) At least one company has announced that it has successfully cloned a human being at the early embryonic stage of life, and others have announced that they will attempt to clone a human being using the technique known as somatic cell nuclear transfer.
- b) The people of the great State of California hereby find and declare to be true that the citizens of California are outraged with human cloning and shall not permit it.
- c) The people of the great State of California hereby find and declare to be true that attempting to clone a human being, a human embryo, a gamete, or a fetus, or a human at any stage-of- life is incomprehensible and shall be banned.
- d) The people of the great State of California hereby find and declare to be true that we desire and want to protect the human race from being infiltrated or changed or altered by laboratory created clones.

**SECTION 3. Purpose and Intent.**

It is the purpose of this Act to ban human cloning.

**SECTION 4. Constitutional Amendment**

Article XXXVI of the California Constitution is added to read:

Sec. 1. Notwithstanding Article XXXV of this Constitution or any other provision of this Constitution or law to the contrary, it shall be unlawful for any person or entity, to intentionally or knowingly:

- a) Perform or attempt to perform human cloning; or
- b) Participate in an attempt to perform human cloning; or
- c) Buy, sell, transfer or receive the product of human cloning for any purpose; or
- d) Buy, sell, transfer or receive, in whole or in part, any oocyte, embryo, fetus, or human somatic cell for the purpose of human cloning.

## Sec. 2. Definitions.

For purposes of this Article:

- a) “**Human Cloning**” means human asexual reproduction, accomplished by introducing the genetic material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been or will be removed or inactivated, so as to produce an organism, at any stage of development with a human or predominantly human genetic constitution.
- b) “**Somatic Cell**” means a cell having a complete set of chromosomes obtained from a living or deceased human body at any stage of development.
- c) “**Embryo**” means a organism of the species homo sapiens from the single cell stage of development.
- d) “**Fetus**” means an organism of the species homo sapiens from eight weeks development until complete expulsion or extraction from a woman’s body, or removal from an artificial womb or other similar environment designed to nurture the development of such organism.
- e) “**Oocyte**” means the human female germ cell, the egg.

## SECTION 5. STATUTORY AMENDMENTS

Sections 200 et. seq. are added to Chapter 1 of Title 8 of the Penal Code to read:

200: It shall be unlawful for any person or entity, to intentionally or knowingly:

- a) Perform or attempt to perform human cloning; or
- b) Participate in an attempt to perform human cloning; or
- c) Buy, sell, transfer or receive the product of human cloning for any purpose; or
- d) Buy, sell, transfer or receive, in whole or in part, any oocyte, embryo, fetus, or human somatic cell for the purpose of human cloning.

200.1. (a) Criminal Penalties:

- 1) Any person or entity that violates section 200(a) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 25 years without the possibility of parole
- 2) Any person or entity that violates section 200(b) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 15 years without the possibility of parole

- 3) Any person or entity that violates section 200(c) or 200(d) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 15 years without the possibility of parole.
- b) In addition to any criminal penalty, any person or entity that violates Section 1(a), or 1(b), or 1(c), or 1(d) and derives a pecuniary gain from such violation shall be liable for a civil penalty not less than two hundred fifty thousand dollars (\$250,000) per violation or twice the amount of gross gain, whichever is greater, in an action brought by the Attorney General. All fines collected shall be placed into the General Fund of the State of California.
- c) Any violation of this Act shall constitute unprofessional conduct and shall result in permanent revocation of the violator's license to practice medicine.
- d) Any violation of this Act may be the basis for denying an application for, denying an application for the renewal of, or revoking any license, permit, certificate, or any other form of permission required to practice or engage in a trade, occupation, or profession.
- e) All contracts for payment of license fees or royalties for intellectual property derived in whole or part from research in violation of this Article are contrary to the public policy of this State and shall be deemed unenforceable in the courts of this State.

200.2. Nothing in this Article shall restrict areas of scientific research not specifically prohibited by this Act, including *in vitro* fertilization, the administration of fertility enhancing drugs, research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, tissues, organs, plants, animals other than humans, or cells other than human embryos.

200.3. For purposes of this Article:

- a) **Human Cloning** means human asexual reproduction, accomplished by introducing the genetic material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been or will be removed or inactivated, so as to produce an organism, at any stage of development with a human or predominantly human genetic constitution.
- b) **Somatic Cell** means a cell having a complete set of chromosomes obtained from a living or deceased human body at any stage of development.
- c) **Embryo** means a organism of the species homo sapiens from the single cell stage of development.
- d) **Fetus** means an organism of the species homo sapiens from eight weeks development until complete expulsion or extraction from a woman's body, or removal from an artificial womb or other similar environment designed to nurture the development of such organism

- e) “Oocyte” means the human female germ cell, the egg.

## **SECTION 6. Severability**

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

## **SECTION 7. Right to Intervention**

The proponent of this initiative, or his or her designee, shall have the right to intervene in any action challenging the constitutionality or enforceability of this Act. The state shall be required to pay all legal costs and fees of the proponent of this initiative as intervenor in any action challenging the constitutionality or enforceability of this Act.

## **SECTION 8. Conflicting Ballot Measures.**

Previous ballot measures that were passed prior the passage of this measure will not be allowed to violate this measure by law. Any ballot measure on the same ballot, during the passage of this measure, that is in direct violation of this act, whether it was passed by the voters or not, if this measure received more affirmative votes than the other measure, this measure hereby nullifies and voids their measure(s). If another opposing measure or opposing measures which passed by the voters in the same election on the same ballot received a greater number of affirmative votes, the provisions of this measure shall take effect, whether in whole or in part, that is permitted by law.

If this measure were passed by the voters but another opposing measure in the same election on the same ballot were passed by the voters and supersedes with affirmative votes, which is later determined to be invalid, for whatever reason, this measure shall become fully enforceable.

## **Section 9. Effective date**

This Act takes effect immediately upon passage.